

REMARKS

The above-noted amendments to claim 9 are respectfully submitted in response to the official action dated February 17, 2009. The limitations with respect to the nature of the at least one retaining element are primarily taken from prior claim 12, which has now been amended to delete these limitations. Also, the limitations with respect to the description of the façade are clearly supported in the specification, including at ¶¶ [0017] and [0019], as well as in the drawings and throughout the specification. The limitations with respect to the pivotal connection between the coupling organ and the organ member are specifically disclosed in ¶¶ [0024] and [0032], as well as in Figs. 3 and 7 hereof. The limitations in new claim 17 are specifically set forth in the specification, such as at ¶ [0032] and in the drawings, such as Figs. 1 and 2 hereof. The limitations in newly added claim 18 are specifically set forth in the specification such as at ¶ [0023], particularly at lines 7-9 thereof, as well as in Fig. 5 hereof. It is thus clear that no new matter is included in these amendments.

At this time, applicant also wishes to express sincere appreciation for the courtesies extended to applicant's counsel by the Examiner during the telephonic interview which was conducted on July 29, 2009. This interview followed prior discussions and applicant's forwarding of a proposed amendment to claim 9 which is specifically discussed in the Interview Summary Record filed by the Examiner. The Examiner has accurately referenced the telephonic interview, and the discussion which took place with respect to proposed amended claim 9, as well as the impact thereof with respect to the prior art as expressed by the Examiner during this interview.

In the present amendment, claim 9 has been amended to include some of the limitations discussed during the telephonic

interview and referenced in the Interview Summary Record dated July 31, 2009, but now also includes additional limitations which have now been included in claim 9. In particular, claim 9 now also requires, with specific reference to Figs. 4 and 7, that the organ member or handle 38 is pivotally attached to the coupling organ or arm 42 about a pivot axis; namely, axis 43 therebetween. This, in turn, permits the façade to be flexibly retained by the retention element so as to prevent damage thereto. In particular, retention of a façade such as glass elements can now be done in a flexible manner so that glass breakage, particularly at the edges of the glass during movement between the glass elements and the supporting frame, can be avoided. It was previously understood that the amendments to the structure of the retaining element alone overcame the Michlovic reference. The Examiner had also concluded the additional limitations added to claim 9 with respect to the vertical side edges of the façade appeared to overcome certain issues with respect to Watanabe. The Examiner nevertheless indicated that the same reference may still be applied under Section 103. The Examiner had further taken the position that proposed additional amendments relating to the disposition of the claimed elements on the interior of the façade, as are now set forth in new claim 17, did not appear to overcome Watanabe. These limitations, however, have not been included in amended claim 9. Instead, new limitations which have not been previously discussed have now been added to claim 9, requiring pivotal connection between the organ member and the coupling organ. It is submitted that these limitations clearly distinguish over both of these references, including Watanabe, and for that reason alone further consideration of amended claim 9 is respectfully requested. Indeed, applicant now asserts that this amended claim clearly and patentably

distinguishes over the art, and reconsideration and allowance of these claims is therefore respectfully solicited.

Claims 9, 10 and 15 have been rejected as being anticipated by Michlovic under 35 U.S.C. § 102(b). The Examiner contends that the frame member 38 comprises a distance element engaged with the building frame, gasket strip 16 comprises a supporting element attached to the distance element for engaging a bottom edge portion of the façade to secure the vertical load of the façade and maintain it in an elevated position, and that first rigid member 15 of Michlovic corresponds to the claimed retaining element, and includes vanes 56 and 58, as seen, for example, in Fig. 4 allegedly corresponding to the groove for gripping a side edge of the façade. The Examiner further contends that the retaining element is attached to the distance element by means of a locking strip member 30 corresponding to the required organ member attached to the retaining element, permitting vertical movement during mounting, and anchoring spline 36 corresponds to the coupling organ. The Examiner further contends that the fastening mechanism 50 corresponds to the cylindrical connection unit attached to the distance element, the supporting element and the retaining element as required by claim 15. In response to applicant's prior arguments with respect to the required grooves, the Examiner contends that elements 56 and 58 of Michlovic do form a grooved shape regardless of the specific term used in the prior art therefor, and that these elements are in engagement with a side edge of the façade to secure it in place. It is also contended that the locking strip member 30 comprises an organ member which allows for vertical movement of the façade, since final securing is only achieved when all of the parts are tightly connected and secured. As for the fastening mechanism 50 in Michlovic, applicant was said not to have pointed out the patentable novelty in the manner required. This rejection is respectfully

traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

As initially noted above and referred to in the aforementioned telephonic interview, the amendments to claim 9 requiring that the façade have top and bottom horizontal edges and a pair of vertical side edges, and now specifically stating that the retaining element includes a U-shaped configuration which is configured to traverse and grip the façade at one of those side edges, does clearly and admittedly overcome and define patentable subject matter over Michlovic. In addition to that, as well as the fact that the Examiner had never even applied Michlovic to prior claim 12, whose limitations have now been included in claim 9, it is further clear that these claims define patentable subject matter at least over Michlovic. Furthermore, it is noted that applicant has now included further amendments to claim 9, requiring that the coupling organ be pivotally attached to the organ member about a pivot axis, which further clearly has no relationship to Michlovic. Clearly, this rejection is no longer applicable, and it is respectfully requested that it be withdrawn.

Claims 9-11 have been rejected as being anticipated by Watanabe under 35 U.S.C. § 102(a). The Examiner contends that Watanabe discloses a fastening metal fixture 2 corresponding to a distance element engaged with a frame, a supporting part 22 with a front end having a belt-shaped plate 222 which is said to correspond to the supporting element attached to the distance element, an upper metal fitting 3 allegedly corresponding to the retaining element including a groove for gripping a side edge of a portion of the façade while allowing vertical movement of the façade during mounting, and that the upper metal fitting 3 includes a plate-shaped hooking portion 31 which is said to correspond to the organ member, and a space 5 where groove 31 is inserted corresponding to the coupling organ for handling the

façade from inside the building and preventing damage thereto. This rejection is respectfully traversed in view of the above amendments and arguments and for the reasons set forth hereinafter.

Applicant would initially point out, as previously asserted, that the upper metal fitting 3 in Watanabe and the lower metal fitting 4 thereof surround the lower and upper edges of the siding 72 and 71, respectively, and are not intended, or even capable of gripping the side edges of any façade. It is clear that the Watanabe reference does not show a retaining element which meets the requirements of amended claim 9 and which includes a waist which is configured to traverse and grip the façade at one of the side edges thereof. In any event, however, amended claim 9 now also includes the requirement for a coupling organ which is pivotally attached to the organ member about a pivot axis so that the façade may be flexibly retained by the retaining element in order to prevent damage thereto. In Watanabe, the rigidly connected upper metal fitting 3 with its plate-shaped hooking portion 31, which is in fact integral with the upper metal fitting itself, certainly does not meet these claim requirements, nor can this structure in Watanabe possibly be pivotable in the required manner. It is thus clear that amended claim 9 now clearly overcomes any rejection based on Watanabe, and reconsideration and allowance of these claims is therefore also respectfully solicited.

Claims 12-14 have been rejected as being unpatentable over Watanabe under 35 U.S.C. § 103(a). The Examiner contends that Watanabe's upper metal fitting 3 is substantially U-shaped with a coupling organ engagement portion identified in the drawing on page 9 corresponding to Fig. 1 of Watanabe by the "X," a waist portion identified by "Y," and a flange portion identified by "Z." These limitations, which have now been added to claim 9, have been discussed above. With respect to the

additional limitations in claims 12-14, the Examiner merely contends that it is notoriously common to have gripping elements taper to define a void, and that the position of the coupling organ can be adapted to correspond to a portion of the retaining element during installation. Again, however, in view of the nature of amended claim 9, and of Watanabe as discussed above, it is clear that claims 12-14 are also patentable thereover, and reconsideration and allowance of these claims is also respectfully solicited.

Claim 16 has been rejected as being unpatentable over Watanabe in view of Farag under 35 U.S.C. § 103(a). Applicant would initially reiterate all of his above-noted contentions with respect to the deficiencies of Watanabe with respect to all of these claims. Suffice it to say at this point that claim 16 merely adds further limitations to claim 9 with respect to the nature of the façade itself, which can only create further distinctions over the art, particularly as compared to the metal siding which is the subject of Watanabe. Reconsideration and allowance of this claim is therefore also respectfully requested.

It is therefore respectfully submitted that the amended claims, and in particular amended claim 9 herein, clearly and patentably distinguish over all of the prior art cited by the Examiner, and reconsideration and allowance of these claims is therefore respectfully solicited. If, however, for any reason the Examiner still does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Finally, if there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 14, 2009

Respectfully submitted,

By   
Arnold H. Krumholz  
Registration No.: 25,428  
LERNER, DAVID, LITTBENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

1054779\_1.DOC